

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

**University Manor
Condominium Owners,**
Petitioner-Appellant,

v.

Jefferson County Board of Review,
Respondent-Appellee.

ORDER

**Docket No. 11-51-1129
Parcel No. 06-24-100-001**

On March 18, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant University Manor Condominium Owners was represented by its manager, Jeffrey Turnbull. Turnbull participated by telephone. Attorney Brett Ryan of Watson and Ryan, PLC, Council Bluffs, Iowa, represented the Board of Review. The Appeal Board having reviewed the entire record, having heard the testimony, and being fully advised, finds:

Findings of Fact

University Manor, lessee of land located at 1000 & 1100 University Manor Drive, Fairfield, Iowa, appeals from the Board of Review decision reassessing its property. The property is subject to a 99-year lease with property owner Maharishi University of Management (MUM). The property is improved with two buildings having a total of forty-eight condominium units that are separately assessed and not part of this appeal. The property was classified as residential with an assessed land value of \$294,800 as of January 1, 2011.

University Manor protested to the Board of Review on the grounds that 1) the property assessment was not equitable as compared with the assessments of other like property in the

taxing district; 2) the property was assessed for more than authorized by law; 3) that the property is exempt from taxes; 4) that there is an error in the assessment; and 5) that there is fraud in the assessment under Iowa Code sections 441.37(1)(a)(1-5). Regarding the error and fraud claims, University Manor simply states “yes” on the form. No other explanations were provided. It sought a reduction in value to \$100,000. The Board of Review denied the protest.

University Manor then appealed to this Board reasserting its claims. Its evidence and testimony was focused on the claims of equity, over assessment, and exemption. As such, we will address only these grounds. At hearing, Jeffrey Turnbull clarified that University Manor now believes the correct market value of the subject site is \$196,020.

The subject parcel is a 3-acre site located in the far north edge of the MUM campus near a railroad right-of-way. According to Turnbull, the property has negative characteristics that reduce its value including an irregular shape that limits the buildable portion of the property; a portion of the land is low with poor drainage; and the proximity of a trailer court. He believes these features reduce the utility of the subject parcel, as well as the appeal, and should therefore result in a reduced assessed value.

University Manor submitted several properties’ assessments attempting to demonstrate inequities in the site values. Turnbull testified regarding these assessments. He stated his belief that land improved with condominiums is assessed at a higher rate than land improved with single-family homes and that this is unfair. However, he fails to recognize that those condominium properties, where a single entity owns both the land and improvements, have allocated site values to the individual units. This is in contrast to single-family sites, which do not have allocated values. We find these comparables are irrelevant for determining the market

value of the subject site; or for determining inequity, as we do not find the individually allocated assessments of improved condominium properties similar to the subject's site.

University Manor also provided eight other properties to demonstrate the subject property is over assessed. It believes these properties are comparable to the University Manor site and are assessed for less than the subject site.

Owner	Site Size (SF)	Assessed Land Value	AV/SF
Fulcher	54,014	\$75,800	\$1.40
Shaw	43,560	\$47,800	\$1.10
Druhl	43,560	\$63,800	\$1.46
Plaut	42,000	\$65,300	\$1.55
Davis	42,000	\$65,300	\$1.55
Lieb	34,412	\$51,400	\$1.49
Egner	82,764	\$70,000	\$0.85
Danaher	144,619	\$174,700	\$1.21

Turnbull believes that the Danaher property is the most comparable because it is the largest site. None of the comparable properties has recently sold, and University Manor did not adjust the assessed value for differences that may exist in size, improvements, topography, or views. For these reasons, we give this analysis no consideration.

Finally, Turnbull asserts that since 10% of the units in University Manor are owned by the Maharishi University of Management (MUM), an exempt entity, it should realize an equal portion (10%) of its site as exempt. Turnbull points to no authority to support this argument. We do not find merit in this claim.

The Jefferson County Board of Review offered limited evidence. It submitted only the property record card of the subject site and a comment letter regarding the subject property. The letter was from Robert Hayes of Hayes Real Estate Appraisers, Fairfield, Iowa. His letter states that he believes an appraisal of the subject property, completed in September 2007 by Don Ulm

of Hayes Real Estate Appraisers, is credible evidence of the value of the subject property as of the appraisal date. Hayes did not actually provide an “update” to the appraisal, despite the Board of Review’s references to an update, or express an opinion of value of the subject site as of the assessment date in question, January 1, 2011. We, therefore, give this evidence no consideration.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property’s fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm’s-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in

arriving at market value. *Id.* If sales are not available to determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2). The property’s assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.

Id. at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied. University Manor failed to support its claim under either test.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529

N.W.2d 275, 277 (Iowa 1995). University Manor failed to show the subject property is over assessed using comparable sales, or any other reliable method of showing market value.

Finally, in an exemption case, it is appropriate for the Appeal Board to “strictly construe a statute and any doubt about an exemption is resolved in favor of taxation.” *Carroll Area Child Care Center, Inc. v. Carroll County Bd. of Review*, 613 N.W.2d 252, 254 (Iowa 2000). We do not find merit in the claim that a portion of the subject’s site should receive exempt status because an exempt organization happens to own some of the other real property improvements that are separately assessed and not the subject of this appeal.

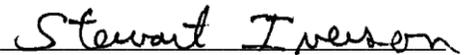
Because University Manor has failed to support any of its claims, we affirm its assessment.

THE APPEAL BOARD ORDERS the assessment of University Manor’s property located at 1000 and 1100 University Manor Drive, Fairfield, Iowa, of \$294,800 as of January 1, 2011, as set by the Jefferson County Board of Review is affirmed.

Dated this 29th day of April, 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Jeffrey Turnbull
University Manor Condominium Owners
108 S 3rd Street
Fairfield, IA 52556
APPELLANT

Brett Ryan
Watson and Ryan, PLC
535 West Broadway, Suite 200
PO Box 646
Council Bluffs, Iowa 51502
ATTORNEY FOR APPELLEE

Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on April 29, 2013.

By: U.S. Mail FAX
 Hand Delivered Overnight Courier
 Certified Mail Other



Signature _____